

1997

# State of Utah v. Carl Alton Winfield Jr. : Brief of Appellee

Utah Court of Appeals

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D. Bruce Oliver; Attorney for Defendant/Appellant.

Dexter L Anderson; Chief Deputy County Attorney for Millard County, Utah; Attorney for Plaintiff/Appellee.

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IN THE UTAH COURT OF APPEALS

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STATE OF UTAH,

Plaintiff/Appellee,

vs.

CARL ALTON WINFIELD, Jr.,

Defendant/Appellant.

: **APPELLEE'S ADDENDUM**

: Case No. 970130-CA

: Case priority No. 2

---

AMENDED BRIEF OF APPELLEE  
STATE OF UTAH

---

APPEAL

---

AN APPEAL FROM A FINAL JUDGMENT  
ENTERED BY THE FOURTH JUDICIAL DISTRICT COURT  
IN AND FOR MILLARD COUNTY  
THE HONORABLE FRED D. HOWARD, PRESIDING.  
(Case Below No. 961401116)

---

D. Bruce Oliver #5120  
Attorney for Defendant/Appellant  
Cal Alton Winfield, Jr.  
180 South 300 West, Suite 210  
Salt Lake City, Utah 84101-1490

Dexter L. Anderson (084)  
Chief Deputy County Attorney  
For Millard County, Utah  
Attorney for Plaintiff/Appellee  
765 South Highway 99  
Fillmore, Utah 84631

IN THE UTAH COURT OF APPEALS

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For Millard County, Utah  
Attorney for Plaintiff/Appellee  
765 South Highway 99  
Fillmore, Utah 84631

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**ADDENDUM A**

⑫

①

Utah vs. Carl Alton Winfield, Jr.

DOB: 3-4-68

#961401116 FS

Address: 4851 West Coriander Dr.

Hearns, UT 84119

Telephone: 963-7901

10-1-96: Defendant brought in by jailer, Steve O'Camb. Provided copy of information and advised of charges and purpose of hearing.

### Bail Hearing

\* Stephen Alfred & Roger Young \*

Claims will be at any hearing -  
only desire is to prove the charges  
are false -

- don't have much money -

- on federal supervised release -

attorney attempting to clean up  
record.

not married

no children

not employed

convicted of Bank Robbery -

sentenced to prison -

released March 1995 -

Pleaded to Burglary 1986 -

DUI 1987

003

Assault on Police Officer - Convicted  
Motion for release on own recognizance  
held placed by U.S. Marshall +  
Federal District Court for violation  
of supervised release.

2 A's 2500  
2 B's 2000  
1 C- 750  
5250

Bail: \$5,000.00. Cash only.

To appear in 4th District Court  
on October 10, 1996 @ 10:00 a.m.

ORIGINAL

IN THE 4TH JUDICIAL DISTRICT FILLMORE COURT  
MILLARD COUNTY, STATE OF UTAH

---

STATE OF UTAH	:	
	:	PLAINTIFF,
	:	NOTICE
	:	
-VS-	:	CASE NO. 961401116 FS
CARL ALTON JR WINFIELD	:	HONORABLE DONALD J EYRE
DEFENDANT.	:	

---

PLEASE BE ADVISED THAT THE ABOVE-NAMED CASE HAS BEEN SET BEFORE  
JUDGE DONALD J EYRE, AS FOLLOWS:

THIS CASE IS SET FOR ARRAIGNMENT.

DATE: OCTOBER 10, 1996	TIME: 10:00 A.M.
PLACE: ROOM 1	ADDRESS: 4TH DISTRICT COURT
	765 S. HIGHWAY 99
	FILLMORE UT 84631
	PHONE: (801) 743-6223

DATED THIS 7TH DAY OF OCTOBER, 1996.

Sharon M. Dalton  
JUDGE/DEPUTY CLERK

COPIES MAILED TO PARTIES OR COUNSEL AT THE ADDRESSES INDICATED ON  
THE ATTACHED MAILING CERTIFICATE.

4

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CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT I MAILED A TRUE AND CORRECT COPY OF THE  
ATTACHED NOTICE, BY FIRST CLASS MAIL, POSTAGE PREPAID,  
TO THE FOLLOWING:

DEXTER L. ANDERSON  
ATTORNEY FOR PLAINTIFF  
750 SOUTH HIGHWAY 99  
S. R. BOX 52  
FILLMORE UT 84631

CARL ALTON JR. WINFIELD  
~~ATTORNEY FOR DEFENDANT~~  
% MILLARD COUNTY JAIL  
S. R. BOX 50  
FILLMORE UT 84631

SLAVENS, JAMES K  
PROSECUTING ATTY  
750 SOUTH HIGHWAY 99  
STAR ROUTE BOX 52  
FILLMORE UT 84631

DATED THIS 17<sup>th</sup> DAY OF October 1996.

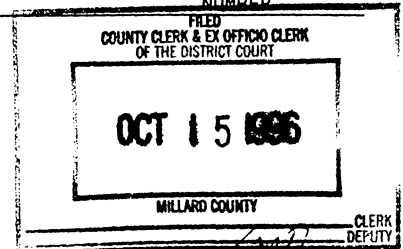
Sharon M. Dalton  
Deputy Clerk

(5)

(5)

EAST MILLARD JUSTICE COURT  
HONORABLE RONALD R. HARE  
FILLMORE, UTAH 84631

CASE NUMBER	STATUS	CASE TITLE	FILING DATE	CASE TYPE/ FILING TYPE	CITATION NUMBER
J-1411-FR-0000960047	COMPLETED	UTAH V CARL ALTON WINFIELD JR	10-01-96	FELONY MAGISTRATE COURT	



PARTIES- D01 WINFIELD CARL ALTON JR 4851 WEST CORIANDER DR  
KEARNS UT 84119

EVENTS-	DATE	SEQ#	CODE	EVENT DESCRIPTION	AMOUNT	RECEIPT
	10-01-96	01	403	BAIL HEARING HELD		
				PARTY: D01 DEFENDANT BROUGHT IN BY JAILER STEVE OCAMB. PROVIDED COPY OF INFORMATION AND ADVISED OF CHARGES AND PURPOSE OF HEARING. AFTER ARGUMENT THE COURT SET BAIL AT \$5,000 CASH ONLY. DEFENDANT ORDERED TO APPEAR IN FOURTH DISTRICT COURT MUNICIPAL DEPARTMENT ON OCTOBER 10, 1996 AT 10:00 A.M.		

10-01-96 02 512 CASE ORDERED TRANSFERRED TO\*\*  
PARTY: D01 FOURTH DISTRICT COURT, MUNICIPAL DEPARTMENT

10-11-96 01 360 RETURN FILED WITH DISTRICT CT  
PARTY: D01

\*\*\*\*\* DEFENDANT RECORD FOR 01 WINFIELD CARL ALTON JR DOB: 03-04-68 \*\*\*\*\*

ARREST DATE:	WARRANT:	WARRANT DATE:	ARRESTING AGENCY: MILLARD COUNTY SHERIFF'S OFC
	BOOKING ID:	BOOKING DATE:	JAIL AGENCY: MILLARD COUNTY SHERIFF'S OFC
BOND TYPE:		RELEASE DATE:	BOND AGENCY: \$5,000
	ARRAIGNMENT DATE:	INIT. APPEAR:	
TRIAL TYPE: NON-JURY 1ST TRIAL:		TRIAL START:	DAYS: HOURS: JUDGE:

CHARGES AND DISPOSITION		SENTENCING	
COUNT: 01 SEQ: 01	INITIAL CHARGE: DISORDERLY CONDUCT	SENTENCE:	DATE:
	INITIAL PLEA:	INT CONFINEMENT:	
	FINAL CHARGE:	JAIL TIME:	HRS COMM. SERVICE: 0
	FINAL PLEA:	PROBATION:	ENDS:
	DISPOSITION: TRANSFERRED	FINES: \$ .00	
	DISPOSITION DATE: 10-01-96	COSTS: \$ .00	RESTITUTION: \$ .00

COUNT: 02 SEQ: 01	INITIAL CHARGE: ABUSE-DISABLED/ELDER ADULT	SENTENCE:	DATE:
	INITIAL PLEA:	INT CONFINEMENT:	
	FINAL CHARGE:	JAIL TIME:	HRS COMM. SERVICE: 0
	FINAL PLEA:	PROBATION:	ENDS:
	DISPOSITION: TRANSFERRED		

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EAST MILLARD JUSTICE COURT  
HONORABLE RONALD R. HARE  
FILLMORE, UTAH 84631

\*\*\*\*\* DEFENDANT RECORD FOR 01 WINFIELD CARL ALTON JR

DOB: 03-04-68 \*\*\*\*\*

CHARGES AND DISPOSITION		SENTENCING	
DISPOSITION DATE: 10-01-96		FINES: \$ .00	
		COSTS: \$ .00	RESTITUTION: \$ .00
COUNT: 03 SEQ: 01 INITIAL CHARGE: ABUSE-DISABLED/ELDER ADULT		SENTENCE:	DATE:
INITIAL PLEA:		INT CONFINEMENT:	
FINAL CHARGE:		JAIL TIME:	HRS COMM. SERVICE: 0
FINAL PLEA:		PROBATION:	ENDS:
DISPOSITION: TRANSFERRED		FINES: \$ .00	
DISPOSITION DATE: 10-01-96		COSTS: \$ .00	RESTITUTION: \$ .00
COUNT: 04 SEQ: 01 INITIAL CHARGE: THREAT AGAINST LIFE/PROPERTY		SENTENCE:	DATE:
INITIAL PLEA:		INT CONFINEMENT:	
FINAL CHARGE:		JAIL TIME:	HRS COMM. SERVICE: 0
FINAL PLEA:		PROBATION:	ENDS:
DISPOSITION: TRANSFERRED		FINES: \$ .00	
DISPOSITION DATE: 10-01-96		COSTS: \$ .00	RESTITUTION: \$ .00
COUNT: 05 SEQ: 01 INITIAL CHARGE: THREAT AGAINST LIFE/PROPERTY		SENTENCE:	DATE:
INITIAL PLEA:		INT CONFINEMENT:	
FINAL CHARGE:		JAIL TIME:	HRS COMM. SERVICE: 0
FINAL PLEA:		PROBATION:	ENDS:
DISPOSITION: TRANSFERRED		FINES: \$ .00	
DISPOSITION DATE: 10-01-96		COSTS: \$ .00	RESTITUTION: \$ .00

**CERTIFICATE**  
East Millard Precinct Court  
County of Millard, State of Utah

Ronald R. Hare, Justice Court Judge of the above entitled Court, certify that the foregoing is a full, true and correct copy of the original as filed and now of record

In this office, consisting of 2 pages.

Dated this 15th day of October, 19 96

Signed Ronald R. Hare

Justice Court Judge

By \_\_\_\_\_

Clerk

**ADDENDUM B**

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STATE OF UTAH

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STATE OF UTAH,  
Plaintiff,

vs.

CARL ALTON WINFIELD, JR.  
Defendant.

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Hearing Transcript

Criminal No. 961401116

BE IT REMEMBERED that on October 24, 1996, the  
Hearing was electronically recorded before the Honorable  
Donald J. Eyre at the Millard County Courthouse, Fillmore,  
Utah, and was transcribed by Richard C. Tatton, a certified  
shorthand reporter and Notary Public.

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A P P E A R A N C E S

For the State of Utah:           Mr. Dexter L. Anderson  
                                      750 South Highway 99  
                                      Star Route Box 52  
                                      Fillmore, UT 84631

and

Mr. James K. Slavens  
750 South Highway 99  
Star Route Box 52  
Fillmore, UT 84631

For the Defendant:           Mr. Lawrence H. Hunt  
                                      195 North 100 East  
                                      Suite #205  
                                      Richfield, UT 84701

P R O C E E D I N G S

THE COURT: The court calls the case of State of  
Utah vs. Carl Alton Winfield.

MR. CARL WINFIELD: Your Honor, I have a motion  
and some other information for the record.

THE COURT: Okay. Let's go through the initial  
appearance and then you can take that matter up.

MR. CARL WINFIELD: Okay.

THE COURT: You've got copied information before  
you?

MR. CARL WINFIELD: Yes.

(10)

(10)

1 THE COURT: Okay. Is Carl Alton Winfield, Jr.  
2 your true and correct name?

3 MR. CARL WINFIELD: That's correct.

4 THE COURT: What is your address?

5 MR. CARL WINFIELD: I don't have an address.

6 THE COURT: Okay. Is your date of birth March 4,  
7 '68?

8 MR. CARL WINFIELD: Yes, it is.

9 THE COURT: We charge the information with five  
10 counts. Count 1 charges you with a Class "C" Misdemeanor  
11 of disorderly conduct. Alleging that on or about September  
12 the 30th of this year that you refused to comply with the  
13 lawful order of a police officer, remove yourself from a  
14 public place, or did knowingly create a hazardous or  
15 physical offensive condition by an act which serves  
16 belligerent purpose.

17 Count 2 charges you with a Class "A" Misdemeanor of  
18 abuse of disabled or elder adult. Alleging that on or  
19 about that same date that under circumstances were most  
20 likely to produce death or a serious physical injury, did  
21 intentionally or knowingly cause a disabled or elder adult,  
22 to wit: Carl Alton Winfield, Sr., to suffer a physical  
23 injury, abuse or neglect.

24 Count 3 charges you with the same, first of all...A  
25 Class "A" Misdemeanor has a potential penalty of

1 confinement in the Millard County Jail for a period up to  
2 one year, and a fine of up to \$2500.00.

3 Count 3 charges you with, also with a Class "A"  
4 Misdemeanor, abuse of disabled or elder adult. Alleging  
5 that under circumstances, under them was likely to produce  
6 death or serious physical injury, did intentionally or  
7 knowingly cause the disabled or elder adult, to wit: Ruth  
8 Winfield, to suffer physical injury, abuse or neglect.

9 Count 4 charges you with a Class "B" Misdemeanor, a  
10 threat against life or property. Alleging on or about that  
11 same date that you did threaten to commit an offense  
12 involving violence with intent to place a person in fear of  
13 eminent serious bodily injury, to wit: threatened to kill  
14 his father, Carl Alton Winfield, Sr.

15 A Class "B" Misdemeanor has a potential penalty of  
16 confinement in the Millard County Jail for a period not to  
17 exceed six months, and/or a fine up to \$1,000.00.

18 Count 5 charges you with a Class "B" Misdemeanor, a  
19 threat against life or property. Alleging that on that  
20 same date that you did threaten or commit an offense  
21 involving violence with intent to place a person in fear or  
22 eminent serious bodily injury, to wit: threatened to kill  
23 his grandmother, Ruth Winfield. Do you understand the  
24 charges?

25 MR. CARL WINFIELD: No.



1 THE COURT: What questions do you have concerning  
2 them?

3 MR. CARL WINFIELD: None.

4 THE COURT: Excuse me?

5 MR. CARL WINFIELD: No questions.

6 THE COURT: Okay.

7 MR. CARL WINFIELD: I do have a motion and some  
8 other information for the record.

9 THE COURT: Okay. Just a second and we'll get to  
10 those. You have the right to be represented by an attorney  
11 at every stage in these proceedings. If you cannot afford  
12 an attorney and can qualify to be indigent the court will  
13 appoint one for you.

14 MR. CARL WINFIELD: At every stage that's  
15 involved in the proceeding, when does that begin, when is  
16 that?

17 THE COURT: Right now. That's why I am informing  
18 you of that right.

19 MR. CARL WINFIELD: Okay. I've appeared at two  
20 separate hearings already.

21 THE COURT: Well, this is the first time you've  
22 appeared before me so I'm informing you of those rights.  
23 If you cannot afford an attorney the court will appoint one  
24 for you. Are you requesting the court to appoint you an  
25 attorney?

1 MR. CARL WINFIELD: I only want to submit a  
2 motion and some other information on the record.

3 THE COURT: Okay. What is your motion?

4 MR. CARL WINFIELD: The motion to dismiss charges  
5 based on State misconduct. The Defendant having been in  
6 custody for approximately ten days, and appearing at two  
7 hearings. As of yet, I have not been afforded by  
8 constitutional requirement for legal representation.

9 Also, as a result of other constitutional violations  
10 existing in this case and to preserve appellate rights, I  
11 would submit to the record at this time clear and  
12 convincing evidence that the Defendant is not competent to  
13 stand trial, nor shall remain in custody of Millard County  
14 Jail facilities.

15 Several psychologists have diagnosed the Defendant as  
16 suffering a variety of mental illnesses that are as of yet  
17 untreated. Mike Decaire, a Ph.D. criminal justice  
18 services, State of Utah; Jeffrey Harris, Ph.D., contracted  
19 by the Department of Rehabilitation; James Richarte, North  
20 Valley Mental Health, Salt Lake City, to name a few.

21 The Defendant within the last year was made eligible  
22 to receive services from the Department of Rehabilitation  
23 based on mental disabilities. Locational rehabilitations  
24 most recent program stipulation from the Defendant is a  
25 psychiatric treatment and therapy program that has not yet

1 occurred. A psychiatrist, Dr. Gant of 1027 East South  
2 Temple, was paid by both rehab to conduct the 18 separate  
3 sessions with the Defendant. As stated, that has not yet  
4 occurred.

5 Last, the Defendant will request the court to  
6 immediately transfer the Defendant to a hospital facility  
7 that can accommodate his psychological needs for treatment  
8 and therapy.

9 THE COURT: What diagnosis have you received, Mr.  
10 Winfield?

11 MR. CARL WINFIELD: Mike Decaire, a Ph.D.,  
12 diagnosed the Defendant as suffering from a dissociated  
13 amnesia. Jeffrey Harris was contracted by the Department  
14 of Rehabilitation, and diagnosed the Defendant as suffering  
15 from a delusional disorder. James Recharte, of the North  
16 Valley Mental Health of Salt Lake, diagnosed the Defendant  
17 as suffering paranoia, personality disorders, and others  
18 that can't be recalled right now.

19 THE COURT: In any other criminal case have you  
20 ever been found not competent to proceed?

21 MR. CARL WINFIELD: Not that I'm aware of. These  
22 diagnosis were made within the last year.

23 THE COURT: Well, the fact that you suffer from a  
24 mental illness might be a basis on which charges will be  
25 dismissed, but it also might be a basis on which you could

1 be found guilty, but mentally ill. Those are all  
2 determinations that the court would have to make at an  
3 appropriate point in time. Are you requesting the court to  
4 appoint you an attorney?

5 MR. CARL WINFIELD: I'm only submitting my motion  
6 to dismiss based on State misconduct that I have not been  
7 afforded legal representation. So until the time...

8 THE COURT: Has bail been set in this matter, Mr.  
9 Winfield? I'm assuming that the hearings that you've had  
10 before the Magistrate were bail hearings.

11 MR. CARL WINFIELD: I know nothing about or  
12 understand nothing about any prior hearings or other stages  
13 of these proceedings.

14 THE COURT: Has bail been set in this matter, Mr.  
15 Slavens, to your knowledge?

16 MR. SLAVENS: I don't. I do believe there was a  
17 bail hearing, but I don't know what the...\$5,000, I think.

18 THE COURT: The court is going to appoint the  
19 public defender to represent you in this matter, Mr.  
20 Winfield. That is Mr. Hunt, who is there. Based upon your  
21 motions the court is going to enter not guilty pleas at  
22 this time on your behalf. We'll set this matter for a pre-  
23 trial to be heard on October 24, at 10:00 a.m. What's the  
24 State's position with respect to bail, Mr. Slavens?

25 MR. SLAVENS: Well, I'm quite concerned about

1 this Defendant. He has not only made threats prior to the  
2 time he's been incarcerated, he has made threats since he  
3 has been incarcerated. His only ties to the community are  
4 the victims in this matter. He has absolutely no ties in  
5 this community, and the people...

6 MR. CARL WINFIELD: That's an absolute false  
7 interjection at this time. That's false information being  
8 submitted to the record by the State.

9 THE COURT: What contacts do you have to the  
10 community, Mr. Winfield?

11 MR. CARL WINFIELD: I have my entire family in  
12 Salt lake City, the Salt Lake Valley, and in other places  
13 that are contacts in the community.

14 THE COURT: Well, what he's talking about is  
15 Millard County. What contacts...

16 MR. CARL WINFIELD: I would note this false  
17 information being submitted again by the State, at this  
18 time, with respect to my ties to the community.

19 THE COURT: Okay. So you have family in Salt  
20 Lake. Do you also have family here in Millard County?

21 MR. CARL WINFIELD: Yes.

22 MR. SLAVENS: And to finish my argument...

23 THE COURT: Okay.

24 MR. SLAVENS: I think bail ought to be actually  
25 higher. I don't know what the chance is of getting a

1 higher bail on a Class "A".

2 THE COURT: Well, these are just misdemeanors.

3 MR. SLAVENS: But I am quite concerned about  
4 this. His own admission as to his mental capacities, that  
5 concerns me as well. I don't think this Defendant should  
6 be released on any terms until at least the mental  
7 deficiencies and problems are addressed. The victims are  
8 quite concerned about him being released because of threats  
9 he has made inside of the jail and outside of the jail. I  
10 don't think...

11 MR. CARL WINFIELD: He has false information,  
12 Your Honor. As the Defendant I would submit that again the  
13 State is submitting false information to the record with  
14 respect to this case. There have been no threats, there  
15 never were any threats either inside or out of the jail.  
16 Again, this is just false information being submitted.

17 THE COURT: Okay. Those are just mere  
18 allegations. If you deny them then...

19 MR. SLAVENS: There is a federal hold on them too  
20 for probation violations.

21 THE COURT: What is your past criminal history,  
22 Mr. Winfield? What prior convictions have you had?

23 MR. CARL WINFIELD: I would just remain with the  
24 information and the motions that I've submitted today. I  
25 will remain with that.

1 THE COURT: So you're not going to, you don't  
2 want to tell me, is that what you're saying? Why I'm  
3 asking that for is to determine what a reasonable bail is.  
4 Those are normal questions that we ask people in setting  
5 bail.

6 MR. CARL WINFIELD: Well, that would go back to  
7 part of my request to be immediately transferred to a  
8 hospital facility that can accommodate my psychological  
9 needs for therapy and treatment, like I said earlier on the  
10 record.

11 THE COURT: Yeah, that might occur, but that's  
12 not going to occur at this point in time until there is  
13 appropriate motions filed to that respect. The court will  
14 accept, have you made a motion in writing, have you?

15 MR. CARL WINFIELD: There is another piece of  
16 information that I will submit with my motion to dismiss  
17 based on statements filed on the 8th of October,  
18 approximately the 8th of October.

19 I received a copy of a notice, a notice of arraignment  
20 set in this case. As for their evidence, on the  
21 certificate of mailing I was listed as being Carl Alton  
22 Winfield, Jr.; was listed as being the attorney for the  
23 Defendant. That would go with my motion to dismiss for  
24 lack of legal representation.

25 THE COURT: Now I've appointed you an attorney

1 now, Mr. Winfield. You don't have that excuse anymore.

2 MR. HUNT: Your Honor, may I be heard on that?

3 THE COURT: Yes.

4 MR. HUNT: When I asked Mr. Winfield a couple  
5 questions that I could help him with bail he advised me to  
6 stay away from him, and he's refused to speak to me since  
7 that point. I would ask the court to reconsider  
8 appointment.

9 THE COURT: Well, the court is going to continue  
10 the appointment. If he doesn't, if he still remains  
11 uncooperative you may file appropriate motions if you...But  
12 based upon his representation it might be appropriate to  
13 file a motion to determine competency to proceed. It  
14 appears that, from my, it appears that Mr. Winfield  
15 understands the legal process. It sounds like he's been in  
16 the system before.

17 MR. CARL WINFIELD: There's more information I'd  
18 like to submit at this time.

19 THE COURT: What is that, Mr. Winfield?

20 MR. CARL WINFIELD: In addition to my request to  
21 be immediately transferred from the Millard County Jail  
22 facilities, in 1986 and probably two or three years  
23 following '86, I did give information at a lawsuit against  
24 Millard County Jail facilities that were clearly not in the  
25 best interest of the Millard County Jail facilities, and



1 totally opposed to the Millard County Jail facilities.

2 I can't, at this time, recall the name of the  
3 Plaintiff or his attorneys, but that lawsuit was filed,  
4 does exist, and as I said I did give information opposing  
5 the Millard County Jail facilities. That would go with my  
6 request also to be removed from the Millard County Jail  
7 facilities.

8 THE COURT: Do you have any specific allegations  
9 that you've been mistreated since you've been in the jail,  
10 Mr. Winfield?

11 MR. CARL WINFIELD: Yes. I was allegedly smoking  
12 a cigarette, at one point during my incarceration in the  
13 last ten days. I was attacked by two Millard County  
14 Sheriffs and was not, after being injured by the Sheriffs,  
15 was not forwarded medical treatment for the injuries that I  
16 sustained. I still am sustaining the injuries at this  
17 point.

18 THE COURT: What injuries did you sustain?

19 MR. CARL WINFIELD: There were injuries to my  
20 shoulder. My elbow was...after having been attacked by the  
21 Sheriffs, one Sheriff stated while attacking me that he  
22 would...

23 THE COURT: Did you receive contusions or...

24 MR. CARL WINFIELD: ...break my arm, he did make  
25 the attempt to break my arm, at that point. I still have

1 not received medical treatment for those injuries.

2 THE COURT: Well, you may file a grievance. Do  
3 you have any bruises you want to show the court at this  
4 time to substantiate your claim?

5 MR. CARL WINFIELD: The claim is substantiated.

6 THE COURT: This court is going to continue bail  
7 at \$5000.00, so we'll set this matter for pre-trial on  
8 October the 24th, at 10:00 a.m. You may be excused Mr.  
9 Winfield.

10  
11 (WHEREUPON, the court hearing was dismissed until October  
12 24th, at 10:00 a.m.)

13  
14 THE COURT: The court calls the case of State of  
15 Utah versus Carl Alton Winfield, Jr.

16 MR. CARL WINFIELD: Your Honor, I have some  
17 psychological reports and two motions to submit on the  
18 record during this hearing.

19 THE COURT: Okay. Have you consulted with your  
20 attorney in these matters?

21 MR. CARL WINFIELD: If he's made any attempt to  
22 contact me in the jail I'm not aware of it.

23 THE COURT: Mr. Hunt, have you tried to contact  
24 Mr. Winfield?

25 MR. HUNT: The last communication I had with Mr.

1 anywhere around him, so I have not.

2 THE COURT: Let's, do you have the motions  
3 prepared, Mr. Winfield?

4 MR. CARL WINFIELD: Yes.

5 THE COURT: Are they in written form and are you  
6 going to make them orally?

7 MR. CARL WINFIELD: Orally now, and I'll submit  
8 it in written form later.

9 THE COURT: Okay. What is your motion?

10 MR. CARL WINFIELD: My first motion is a motion  
11 to dismiss based on ineffective assistance of Counsel. On  
12 October 10, 1996, during the arraignment in this case, Mr.  
13 Hunt requested of the court to withdraw from the Defense.  
14 The attorney/client conflict between Mr. Hunt and the  
15 Defendant was made clear at that time. However, Mr. Hunt's  
16 request to withdraw was denied by the court.

17 THE COURT: Mr. Winfield, at that point in time I  
18 had just appointed him to represent you. How could it have  
19 been ineffective assistance? You said you didn't want an  
20 attorney, is that correct?

21 MR. CARL WINFIELD: I'll just continue with the  
22 motion. Is this being, is this on an electronically  
23 recorded transcript?

24 THE COURT: It is, Mr. Winfield. It is.

25 MR. CARL WINFIELD: Okay. Would you like me to

1 start over so that I can put this clearly on the record?

2 THE COURT: Okay. Do the whole thing then, and  
3 then I will respond.

4 MR. CARL WINFIELD: Okay. Motion to dismiss  
5 based on ineffective assistance of Counsel on October 10,  
6 1996, during the arraignment in this case Mr. Hunt  
7 requested of the court to withdraw from the Defense. The  
8 attorney/client conflict between Mr. Hunt and the Defendant  
9 was made clear at that time. However, Mr. Hunt's request  
10 to withdraw was denied by the court. Mr. Hunt has also  
11 failed to authenticate to the court the existing  
12 psychological information and mental condition of the  
13 Defendant, or further move the court to examine the  
14 Defendant's competency to be lawfully tried by the State.

15 I would ask the court to accept into evidence with  
16 this motion three separate psychological reports of  
17 diagnosed mental illnesses of the Defendant at a Utah State  
18 Office of Rehabilitation, individualized written  
19 rehabilitation program for psychiatric treatment the  
20 Defendant has not yet received.

21 I have copies for the prosecutor and His Honor to  
22 review. If I may direct the court's attention to various  
23 diagnosis at one or two of the more important facts  
24 contained within the psychological reports.

25 THE COURT: Hand them to the Bailiff. Okay. You

1 say you had two motions?

2 MR. CARL WINFIELD: Just a moment, Your Honor.  
3 Yes. This is part of the motion to dismiss based in  
4 ineffective assistance.

5 The psychological report, I have them in order,  
6 directing your attention to the various things in these  
7 reports. The psychological report of Mike Decaire, a  
8 Ph.D., 8/29/95, page 3, paragraph 6, numbered 6. Mr.  
9 Decaire diagnosed the Defendant as suffering dissociated  
10 amnesia. I have these outlined in red, I believe.

11 THE COURT: Yes.

12 MR. CARL WINFIELD: And further on page 4,  
13 paragraph numbered 7, he describes the Defendant's  
14 imperative need for treatment and therapy.

15 THE COURT: Okay.

16 MR. CARL WINFIELD: The Level 2 psychological  
17 evaluation of Jeffrey D. Harris, Ph.D., 12/15/95, it would  
18 be the next one.

19 THE COURT: I've got it.

20 MR. CARL WINFIELD: Page 5, Mr. Harris diagnosed  
21 the Defendant as suffering a delusional disorder, further  
22 in the last sentence under functional limitations. That  
23 would be just to top the diagnosis. Mr. Harris states the  
24 Defendant's condition is severely debilitating.

25 THE COURT: Okay.

1 MR. CARL WINFIELD: The last two described  
2 diagnosis by these clinical psychologists are as of yet  
3 untreated at this time. The psychological report of James  
4 D. Recharte, PSY.D., I'm not sure what that would be,  
5 professional terms, psychiatrist, clinical psychologist.

6 THE COURT: It's a psychologist.

7 MR. CARL WINFIELD: ...of the Valley Mental  
8 Health, 3/11/96, page 3, Mr. Recharte indicates the  
9 Defendant is suffering a personality disorder with  
10 narcissistic paranoia and anti-social features.

11 THE COURT: That's an Access Two diagnosis. He  
12 says you have no diagnosis in Access One.

13 MR. CARL WINFIELD: Then again I don't understand  
14 what the Access Two would be on...

15 THE COURT: Well, that means, most criminals who  
16 have involved themselves in criminal activity...

17 MR. CARL WINFIELD: Well, I'd have to object to  
18 the His Honor's alleged understanding of the  
19 psychological...

20 THE COURT: Well, I go to the State Hospital  
21 every Wednesday, Mr. Winfield. I have a working  
22 understanding of Access One and Access Two diagnosis.

23 MR. CARL WINFIELD: My understanding of Access  
24 Two was that that was long term, was observed as being some  
25 long term conditions the Defendant has suffered.

1 THE COURT: No, Access Two deal more with  
2 personality disorders. Do you have a second motion?

3 MR. CARL WINFIELD: On the Utah State Office of  
4 Rehabilitation individualized written rehabilitation  
5 program amendment of July '96, completed by a Vocational  
6 Rehabilitation Counselor, Dan Crandall, Salt Lake City.  
7 The Defendant is scheduled for a Level 2 Psychiatric  
8 Examination, and 18 sessions of Psychotherapy. I think I  
9 have that numbered page six.

10 THE COURT: Yes. I see that.

11 MR. CARL WINFIELD: The clerical error on this  
12 page, Your Honor, is that wherever the term psychological  
13 is noted in the rehabilitation program it is, in fact, the  
14 psychiatrist who was paid to treat the Defendant, Dr. Gant,  
15 of 1027 East South Temple, Salt Lake City, Utah. I'm not  
16 positive of his first name, so I'm not going to state it.  
17 It could be Richard, but I do know he is a psychiatrist and  
18 that is his address.

19 THE COURT: Okay.

20 MR. CARL WINFIELD: And you see the initial date  
21 was 7/96 to begin the Psychotherapy, and a completion date  
22 of 7/96. That would be the extent of my first motion to  
23 dismiss based on ineffective assistance.

24 THE COURT: Mr. Winfield, are you requesting the  
25 court to appoint another attorney for you, or do you want

1 to represent yourself?

2 MR. CARL WINFIELD: I'm just submitting the  
3 motions, Your Honor.

4 THE COURT: Any response from the State?

5 MR. ANDERSON: Well, I think the only, if I  
6 deciphered what Counsel is saying he is perhaps trying to  
7 raise, in effect trying to raise an issue about his  
8 competency to proceed, Your Honor. If that is the case,  
9 first of all, I'd say he demonstrated very good competency  
10 before the court here this morning.

11 MR. CARL WINFIELD: I would object...

12 MR. ANDERSON: But on the other hand, if he feels  
13 that he has a competency problem and cannot proceed because  
14 of his competency why then I don't object to him being  
15 committed to the mental hospital for a competency  
16 evaluation, Your Honor.

17 MR. CARL WINFIELD: I would object, Your Honor...

18 MR. ANDERSON: I think that's what he's after.  
19 I'm not sure.

20 MR. CARL WINFIELD: In that, intelligence has  
21 nothing to do with mental illness as far as I can see or  
22 understand. I may be one case in a million, but that's my  
23 personal belief. Understanding that I'm mentally ill and  
24 taking their word of these Ph.D. psychologists has nothing  
25 to do with the fact that I do know that I feel as if I am



1 someone intelligent enough to point out to the court that  
2 these things haven't been handled.

3 I've been in custody for 24 days, approximately, and  
4 there has been no attempt by the State or the public  
5 defense to bring these issues to the court's attention.  
6 That's why I'm submitting them with the motion for  
7 ineffective assistance to dismiss, based on ineffective  
8 assistance from Counsel.

9 My second motion, Your Honor, is that I wrote you a  
10 letter and requested...

11 THE COURT: Yes. I just got it this morning when  
12 I came to court. You're requesting that there be a  
13 transcript made of the last hearing.

14 MR. CARL WINFIELD: Yes. I requested in the  
15 letter that you have there if you would, if I could direct  
16 your attention to the letter. I requested the written  
17 transcript of the arraignment on 10/10/96.

18 THE COURT: Yes.

19 MR. CARL WINFIELD: So that I may prepare with, I  
20 asked for the transcript so that I could prepare the  
21 motions that I have today. Have those transcripts been  
22 prepared?

23 THE COURT: Well, I just received your request  
24 today, Mr. Winfield. You directed it to me, and I'm only  
25 here every other week.

1 MR. CARL WINFIELD: Well, can we note the post  
2 mark on the envelope?

3 THE COURT: It was mailed October the 15th.

4 MR. CARL WINFIELD: Excuse me?

5 THE COURT: The post mark is October the 15th.  
6 You dated the letter October the 11th.

7 MR. CARL WINFIELD: Okay. That's when it was  
8 submitted to the jail staff to be mailed. At any rate,  
9 10/10/96, there was a different prosecutor handling things.  
10 Who was he?

11 THE COURT: Mr. Slavens I believe was here that  
12 day.

13 MR. CARL WINFIELD: That was Mr. Slavens, okay.  
14 Then this would be fine for...In fact, that was my  
15 understanding, that it was Mr. Slavens. Who are you, Sir?

16 MR. ANDERSON: I am the chief county, Deputy  
17 County Attorney Dexter Anderson.

18 MR. CARL WINFIELD: Thank you. My second motion  
19 would be I, the Defendant, would submit that a motion to  
20 dismiss based on prosecutorial misconduct during the  
21 arraignment in this case, 10/10/96. The Prosecutor, Mr.  
22 Slavens, was advised of the serious nature of the  
23 Defendant's medical or mental condition, and the  
24 Defendant's need for release or transfer to an appropriate  
25 facility. After having been so advised of these

1 setbacks the Prosecutor made evident his deliberate  
2 indifference to the Defendant's mental condition, and  
3 detention within the Millard Jail Facility by requesting of  
4 the court to raise the Defendant's bail. And further  
5 offering no objections to the Defendant's motion to dismiss  
6 on 10/10/96.

7 And I would ask the court at this time if you would  
8 like to submit any kind of ruling on the motions submitted  
9 by the Defendant to dismiss of 10/10/96.

10 MR. ANDERSON: Well, we certainly want to be on  
11 the record, Your Honor, as opposing any motion to dismiss  
12 on any of the bases that the Defendant has raised.

13 THE COURT: Anything else, Mr. Winfield?

14 MR. CARL WINFIELD: Your Honor, is there going to  
15 be any ruling on the motion to dismiss?

16 THE COURT: Yes. I am going to rule on the  
17 motions.

18 MR. CARL WINFIELD: The motion to dismiss based  
19 on State misconduct of 10/10/96 as well, added to these two  
20 motions?

21 THE COURT: Yes. The court was present on your  
22 initial appearance before the court on October the 10th.  
23 At that time, you did make the indication that you did  
24 suffer from a mental illness. The court did appoint  
25 counsel for you. You indicated at that time that you

1 didn't want Counsel or at least you didn't want Mr. Hunt.

2 MR. CARL WINFIELD: Well, I would object. I  
3 indicated nothing at the time on the record, Your Honor.  
4 Mr. Hunt just barely requested to withdraw from the  
5 Defense.

6 THE COURT: Well, didn't you make some comment to  
7 the effect that you didn't want any contact with him?

8 MR. CARL WINFIELD: You'd have to ask Mr. Hunt.

9 THE COURT: Well, I recall some statement to that  
10 effect. That's why he requested the withdrawal. At this  
11 time, the court, based upon your informing the court and  
12 providing copies of psychological evaluations, which  
13 indicate that you might suffer...Those were made in 1995.  
14 The court is aware that a person's mental health changes,  
15 as does his physical health. But based upon the  
16 representation that you continue to suffer from a mental  
17 illness on your behalf, the court is going to deny at this  
18 time your motions to dismiss based upon ineffective  
19 assistance of Counsel, because there hasn't been any  
20 assistance. You've basically refused that assistance. But  
21 based upon your indication that you desire, you continue to  
22 represent that you suffer from a mental illness. Is that  
23 correct, Mr. Winfield?

24 MR. CARL WINFIELD: Well, first of all I'd have  
25 to object that I refused any assistance. I believe on

1 10/10/96 during the arraignment that Mr. Hunt was assigned  
2 to proceed with the Defense in this case, and there is the  
3 ineffective assistance. Everything I've brought to the  
4 court's attention today I would believe that it would have  
5 been Mr. Hunt's responsibility to do that.

6 THE COURT: And that's a possibility. But based  
7 upon your representations today the court is going to order  
8 that you be referred to the Utah State Hospital for an  
9 evaluation to determine your competency to proceed.

10 The court will order that two alienists be appointed  
11 to examine you to determine whether you meet the criteria  
12 for competency to proceed pursuant to Utah State statute.  
13 The court will order that that evaluation be done within  
14 the next 30 days pursuant to statute. That this matter be  
15 back before the court on, if possible, November the 22nd,  
16 at 10:00 a.m.

17 The court will request that copies of the criminal  
18 information and copies of the police reports in these  
19 matters be referred to the examiners who are appointed to  
20 examine Mr. Winfield, that copies of their reports be given  
21 to Counsel.

22 Both the prosecution and Mr. Hunt will make a  
23 determination that after, if the court finds that you're  
24 competent to proceed then we'll take up the issue of  
25 whether or not you want Counsel, Mr. Winfield.

1 MR. CARL WINFIELD: Your Honor, I would as the  
2 Defendant demand that my right to a speedy trial be  
3 observed. These motions that I've submitted, they have  
4 nothing to do with whether or not the court should proceed  
5 with competency hearings, or evaluations.

6 THE COURT: You're the person who has put your  
7 mental health at issue, Mr. Winfield, both last time and  
8 today. You're the one who has indicated that you're not,  
9 don't have the ability to proceed because of your mental  
10 illness.

11 The court cannot, based upon that fact, the court  
12 cannot proceed until it determines that you are competent  
13 to proceed. If the court determines, if the reports come  
14 back and the court finds that you're not competent to  
15 proceed then you'll be placed in a mental health system  
16 until such time as they determine you are competent to  
17 proceed.

18 If they determine that you are competent to proceed at  
19 this point in time pursuant to State statute, then at that  
20 point in time the court will set this matter for trial at  
21 the earliest appointed time.

22 MR. CARL WINFIELD: This will bring me to my last  
23 motion. I'd submit a motion for a speedy trial in this  
24 case.

25 THE COURT: Well, once you're...

1 MR. CARL WINFIELD: The Defendant has a right to  
2 be brought before a trial within 30 days of his  
3 arraignment, and I'd move the court to observe that right  
4 to a speedy trial at that time.

5 THE COURT: That is correct once the court has  
6 determined that you're competent to proceed. You put your  
7 mental health at issue, and you're the one that has done  
8 that. Once it's determined that you are competent to  
9 proceed, then, yes, we'll give you a trial within 30 days.

10 MR. CARL WINFIELD: And I would object again in  
11 that this is a, you're bringing about a collateral issue,  
12 and that these issues were brought forth with a motion to  
13 dismiss based on ineffective assistance of Counsel. It has  
14 nothing to do with the deed or where we should go with any  
15 decision or competency hearings or evaluations. I would  
16 object...

17 THE COURT: Well, you're the one who has put your  
18 mental health at issue. You're the one who has presented  
19 the court with the reports, so we'll see you in 30 days.  
20

21 (WHEREUPON, the Hearing was concluded.)  
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**ADDENDUM C**

IN THE 4TH JUDICIAL DISTRICT FILLMORE COURT

MILLARD COUNTY, STATE OF UTAH

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STATE OF UTAH	:	MINUTE ENTRY
	:	
PLAINTIFF	:	CASE NUMBER 961401116 FS
	:	DATE 12/06/96
VS	:	HONORABLE DONALD J EYRE
	:	COURT REPORTER TAPE 1 COUNT 440
WINFIELD, CARL ALTON JR	:	COURT CLERK MAW
DEFENDANT	:	
IN CUSTODY	:	

---

TYPE OF HEARING: HEARING  
PRESENT: PLAINTIFF DEFENDANT

P. ATTY. ANDERSON, DEXTER L.  
D. ATTY. HUNT, LAWRENCE H

---

DEF. HAD QUESTIONS OF THE COURT REGARDING PREVIOUS APPEARANCES IN COURT. HE HAD A QUESTION FOR HIS COUNSEL. THE DEFENDANT SEEMS TO BE EXAMINING HIS COUNSEL. HE CLAIMS HE IS UNDER HIS 6TH AMENDMENT RIGHTS. THE COURT INFORMED THE DEF THAT HE IS STILL UNDER A HOLD FROM THE FEDERAL MARSHALLS. ATTY ANDERSON REPLIED TO ONE OF THE QUESTIONS MR. WINFIELD ASKED HIS COUNSEL. THE COURT DIRECTED THE DEFENDANT TO MAKE HIS MOTIONS THROUGH COUNSEL. THE DEFENDANT ASKED THAT MR. HUNT WITHDRAW AS COUNSEL AND HE WISHED TO REPRESENT HIMSELF IN THIS MATTER. THE COURT QUESTIONED THE DEFENDANT AS TO HIS UNDERSTANDING OF THE CONSEQUENCES WHICH MAY ARISE FROM HIM ACTING AS HIS OWN ATTORNEY. THE COURT EXPLAINED THAT THE DEFENDANT WOULD BE UNDER THE SAME RULES OF LAW AS IF HE HAD COUNSEL REPRESENTING HIM. THE DEF. WANTS TO PROCEED WITH A PRETRIAL TODAY, THE COURT EXPLAINED THAT THE DEFENDANT WOULD NEED TO FOLLOW CERTAIN PROCEEDINGS. THE COURT IS AWARE OF A LETTER FROM THE DEF. DEF ASKED THAT ALL OF HIS MOTIONS BE SUBMITTED IN WRITTEN FORM THE COURT REQUIRED THE DEFENDANT TO SUBMIT ALL OF HIS MOTIONS IN WRITING AS HE ASKED. THE COURT WILL KEEP THE FILE AND THE MATTER WILL BE SET FOR TRIAL BY JURY. A REQUEST IN

WRITING FOR A JURY TRIAL WILL HAVE TO BE SUBMITTED AND A DATE WILL BE SET. THE COURT WILL TAKE A RECESS TO ALLOW THE DEF TO SPEAK TO THE COUNTY ATTORNEY.

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CONTINUED: TAPE 1 CPIMT 1444. ATTY ANDERSON REPORTED TO THE COURT THAT HE HAD TRIED TO WORK WITH THE DEF ENDANT ON A PLEA BARGAIN AND CONCLUDED THAT NO AGREEMENT HAD BEEN REACHED. THE DEF STILL INSISTS THAT HE IS BEING RETALIATED AGAINST BY THE JAIL STAFF. HE IS AGAIN REQUESTING THAT HE BE REMOVED FROM THIS JAIL. THE COURT WILL NOT ENTERTAIN THIS REQUEST. MR. WINFIELD ALSO ASKED THAT HE HAVE ADDITIONAL TIME TODAY TO PRESENT HIS MOTIONS. THE COURT DENIED THAT REQUEST ALSO. HE WAS AGAIN REMINDED THAT HE MUST FOLLOW THE RULES JUST AS OTHER COUNSEL IS REQUIRED TO DO.

**ADDENDUM D**

40

40

1 that we will have them to refer to.

2 MR. WINFIELD: And quickly, I would object to Mr.  
3 Slavens submission that the witnesses would have nothing  
4 material to testify about in that he doesn't know....

5 THE COURT: He is asking you what they, we have to  
6 determine that, what is it that they would, if they were  
7 called to speak, just in a brief summary, what would they  
8 say?

9 MR. WINFIELD: Quickly, I only want to enter my  
10 objection that he doesn't know the witnesses. He doesn't  
11 know what they could testify to or what they couldn't  
12 testify to and I would just simply object to his submission.

13 THE COURT: Tell me then, tell me then so I can  
14 know.

15 MR. WINFIELD: As I stated among other things,  
16 several other things, they would be character witnesses for  
17 the Defendant, Your Honor. As I stated earlier, my  
18 objection is only is that he doesn't know the witnesses, he  
19 doesn't know what they would testify to or what they  
20 wouldn't.

21 THE COURT: They would testify of your good  
22 character?

23 MR. WINFIELD: That is correct.

24 THE COURT: Anything else?

1 MR. WINFIELD: No, Your Honor.

2 THE COURT: Mr. Slavens, what do you say?

3 MR. SLAVENS: It is not relevant. I mean, I guess  
4 if he wants to make that an issue we could bring in a bunch  
5 of people about his character, but I don't think that is  
6 relevant and we would object to them testifying regarding  
7 that. But if he wants to, if the Court says that is  
8 relevant and he wants to say that's what they would come  
9 down and say he is a good person I don't have a problem.  
10

11 THE COURT: Alright.

12 MR. WINFIELD: I object. The relevancy is that  
13 the witnesses credibility far outweighs the alleged victims  
14 credibility and that is what would have been established had  
15 they have been served and brought to my trial today. I  
16 would just stay with my original objection and my objection  
17 to Mr. Slavens supposed knowledge of who the witnesses are  
18 and what they may testify to.

19 THE COURT: Alright. Mr. Winfield, proceeding on.  
20 That is your second point with this motion. Go on.

21 MR. WINFIELD: We are addressing the motion to  
22 dismiss?

23 THE COURT: Yes. We have got to move along here.  
24 We are running out of time so I have got to push forward.  
25

MR. WINFIELD: I, the Defendant, I also argued

1 Deputy County Attorney's Office and to the Court Clerk,  
2 which I am not sure if both packages were dropped off at the  
3 Deputy County Attorney's Office or if they were delivered to  
4 their address location. But the officer is in the Court  
5 room; that would be Officer Steve O'Cam and he took with him  
6 the inmate request form that reads "I need the County  
7 Attorney's Office and the Court Clerk to sign for the legal  
8 packages marked legal motions, if they could sign this  
9 request that would be fine." Contained within those legal  
10 packages were the entirety of the Defendant's motions to  
11 dismiss, request for information, order for service of  
12 summons, with all the attached copies of subpoenas and so  
13 forth. If I may enter what has been signed apparently by  
14 Dexter Anderson, as the motion, legal packages with all the  
15 contained information that he signed that was received on  
16 the 19th, the same day that the subpoenas were stamped. The  
17 county attorney's office have had the order for service of  
18 summons and all the so attached subpoenas from the 19th of  
19 December. If I could have the Bailiff...

20 THE COURT: Let me ask you this, Mr. Winfield.  
21 This, you have raised two questions that pose a peculiar  
22 problem for this case. Again, I will just restate, it is  
23 not my job to get your witnesses here, but it does pose a  
24 problem.  
25

1        You have also raised the question of counsel. I  
2 understand that Judge Eyre was very careful about that  
3 question with you and you were determined competent and you  
4 are entitled to represent yourself, which you are doing this  
5 morning. That is your business and that's your choice and I  
6 respect that. However, if you claim that this matter, if  
7 you claim that you don't have your witnesses here for which  
8 you wish to have the case dismissed, I have to make a  
9 decision on that. If you claim you don't have your  
10 witnesses here for whatever reasons and you want the case  
11 continued, I have to consider that. If you claim that you  
12 want an attorney appointed, where you certainly don't have  
13 one today and that would result in a continuance of the  
14 trial as a possibility, I suppose. What is it that you are  
15 requesting from this?  
16

17        MR. WINFIELD: I definitely don't want to spend  
18 too much more time incarcerated and that has been the  
19 biggest problem.

20        THE COURT: I can understand that, that would delay  
21 the case and would - is bail set in this matter?

22        MR. SLAVENS: Yes, but there is a Federal hold on  
23 him.

24        THE COURT: I see. In any event, you are right.  
25 That, a delay may cause further incarceration. Are you



1 turn. On the motion to dismiss, I will note for the record,  
2 I have read that and heard argument. The Court will note in  
3 this matter that the Defendant was determined to be  
4 competent; that he has a right under the law to represent  
5 himself and did request the withdrawal and refusal of his  
6 prior, previously appointed attorney. Because of that, many  
7 of the issues and arguments of the Defendant are moot, in  
8 principally including that of conflict, preferred counsel,  
9 other questions of matters or legal rights or defects that  
10 he has claims that should be raised, can and could be raised  
11 with the motion to dismiss. The Court notes that the  
12 Defendant has raised a motion to dismiss at this present  
13 time. He has the opportunity to do that and has exercised  
14 that right. I don't find that the motion is sustained under  
15 the law for the reasons stated or argued and I will deny the  
16 motion.  
17

18 MR. WINFIELD: I am sorry, I didn't hear the  
19 reason, Your Honor. I am sorry. I didn't hear...

20 THE COURT: With respect. I deny the motion. I  
21 don't find the legal basis as set forth under the motion and  
22 argument to be satisfactory so I deny the motion. I don't  
23 find that they are sustained under the reasons that you  
24 stated.  
25

Also the question of the witnesses is more difficult

44-a

44-a

1 this morning, Your Honor. I have the evidence, we have the  
2 witnesses here in the Court room today; they can be  
3 interviewed briefly.

4 THE COURT: This is what I am going to do on that.  
5 I haven't had preparation for this. I don't have time to  
6 handle it now. I will handle it at noon. We will renew  
7 this motion; I will consider it then. I don't have the time  
8 to do it now. I don't have the document you are speaking  
9 of; we will have to gather them up. We will make - Mr.  
10 Slavens, do you have any information about this, did you  
11 know about this?

12 MR. SLAVENS: I have no idea what he is talking  
13 about.  
14

15 THE COURT: We are going to have to address it  
16 then. This is a newly made motion and that is when we will  
17 hear it. So you can prepare yourself for that at noon. We  
18 will take the time to do it then, because we will excuse our  
19 jury then to do that.

20 MR. WINFIELD: Okay, Your Honor, thank you.

21 THE COURT: Anything else?

22 MR. WINFIELD: I would just like to proceed with  
23 trial.

24 THE COURT: Mr. Slavens, anything?

25 MR. SLAVENS: No, Your Honor.

1 turn. On the motion to dismiss, I will note for the record,  
2 I have read that and heard argument. The Court will note in  
3 this matter that the Defendant was determined to be  
4 competent; that he has a right under the law to represent  
5 himself and did request the withdrawal and refusal of his  
6 prior, previously appointed attorney. Because of that, many  
7 of the issues and arguments of the Defendant are moot, in  
8 principally including that of conflict, preferred counsel,  
9 other questions of matters or legal rights or defects that  
10 he has claims that should be raised, can and could be raised  
11 with the motion to dismiss. The Court notes that the  
12 Defendant has raised a motion to dismiss at this present  
13 time. He has the opportunity to do that and has exercised  
14 that right. I don't find that the motion is sustained under  
15 the law for the reasons stated or argued and I will deny the  
16 motion.  
17

18 MR. WINFIELD: I am sorry, I didn't hear the  
19 reason, Your Honor. I am sorry. I didn't hear...

20 THE COURT: With respect. I deny the motion. I  
21 don't find the legal basis as set forth under the motion and  
22 argument to be satisfactory so I deny the motion. I don't  
23 find that they are sustained under the reasons that you  
24 stated.  
25

46 Also the question of the witnesses is more difficult

1 staying you do not want a continuance for either reason?

2 MR. WINFIELD: That is my main motivation for  
3 requesting to proceed with the trial today, is that I have  
4 been incarcerated for three months and there have been  
5 several opportunities by the deputy county attorneys and the  
6 public defense...

7 THE COURT: In raising these complaints then, you  
8 are not asking for a continuance of the trial.

9 MR. WINFIELD: I am not asking for a continuance.

10 THE COURT: I will consider it for a motion to  
11 dismiss.

12 MR. WINFIELD: I know there is no, that the  
13 availability for these things to be handled is limited so I  
14 would remain with whatever the Court decides to do with  
15 respect to my motions today.  
16

17 THE COURT: Let me just say this, let me also just  
18 alert you in terms of a continuance if that is a  
19 possibility. I would consider this. It is very difficult  
20 to manage jury trial settings. It is difficult to for us to  
21 find the days available to schedule them and to get people  
22 here and have a jury trial. It is less difficult for a  
23 trial to the bench. One possibility is to continue this  
24 case, to attempt reassigning an attorney, to attempt to  
25 reschedule this matter and get witnesses here. Another

ADDENDUM E

DEXTER L. ANDERSON #0084  
MILLARD COUNTY DEPUTY ATTORNEY  
765 South Highway 99  
Star Route, Box 52  
Fillmore, Utah 84631  
(801) 743-6522

FILED  
COURTY CLERK BY OFFICIAL CLERK  
OF THE DISTRICT COURT

FEB 24 1997

MILLARD COUNTY

JMD

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

IN AND FOR MILLARD COUNTY, STATE OF UTAH

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STATE OF UTAH,	:	JUDGMENT, SENTENCE, ORDER
Plaintiff,	:	SUSPENDING EXECUTION OF
	:	SENTENCE AND ORDER OF
vs.	:	PROBATION
	:	
CARL ALTON WINFIELD, JR.,	:	#96-1401116 MS
Defendant.	:	

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An Amended Information was filed herein charging the Defendant with the following crimes:

COUNT #1 - ABUSE OF A DISABLED OR ELDER ADULT/A Class "A" Misdemeanor

In that the Defendant, under circumstances other than those likely to produce death or serious physical injury, did intentionally or knowingly cause a disabled or elder adult, to wit; Carl Alton Winfield, Sr., to suffer physical injury, abuse or neglect, a Class "A" Misdemeanor in violation of U.C.A. §76-5-111(3).

COUNT #2 - ABUSE OF A DISABLED OR ELDER ADULT/A Class "A" Misdemeanor

In that the Defendant, under circumstances other than those likely to produce death or serious physical injury, did intentionally or knowingly cause a disabled or elder adult, to wit; Ruth Winfield, to suffer physical injury, abuse or neglect, a Class "A" Misdemeanor in violation of U.C.A. §76-5-111(3).

COUNT #3 - THREAT AGAINST LIFE OR PROPERTY/A Class "B" Misdemeanor

In that the Defendant did threaten to commit an offense involving violence with intent to place a person in fear of imminent serious bodily injury, to wit; threatened to kill his father, Carl Alton Winfield, Sr., a Class "B" Misdemeanor in violation of U.C.A. §76-5-107.

COUNT #4 - THREAT AGAINST LIFE OR PROPERTY/A Class "B" Misdemeanor

In that the Defendant did threaten to commit an offense involving violence with intent to place a person in fear of imminent serious bodily injury, to wit; threatened to kill his grandmother, Ruth Winfield, a Class "B" Misdemeanor in violation of U.C.A. §76-5-107.

49

49

And this case came on for jury trial on the Amended Information on the 30th of December, 1995 and James K. Slavens, Millard County Deputy Attorney, was present representing the State, and the Defendant appeared *pro se* and proceeded in that manner after having been advised of his right to Counsel by the Court. The Court duly impaneled and instructed the jury who heard the testimony of the witnesses, examined the proffered evidence and considered the arguments of both parties. After deliberation, the jury returned verdicts of not guilty to Count #1 and guilty verdicts to Counts #2, #3 and #4 whereupon the jury was dismissed. The Court ordered a presentence report from the Utah State Department of Adult Probation and Parole prior to imposition of sentence.

This matter came on for sentencing on the 31st of January, 1997 and Dexter L. Anderson, Millard County Deputy Attorney, was present representing the State and the Defendant appeared together with his Counsel, Jeffrey P. Gleave, (the Defendant having petitioned the Court for appointment of Counsel in the interim). The Court and both parties had reviewed the Presentence Report submitted by the Department of Adult Probation and Parole and the Court granted the Defendant an opportunity to make a statement in mitigation prior to imposition of sentence. The Court reviewed the file in its entirety and now therefore hereby makes and enters the following Judgment, Sentence, Order Suspending Execution of Sentence and Order of Probation;

### **JUDGMENT**

IT IS HEREBY FOUND that the Defendant, CARL ALTON WINFIELD, JR., is not guilty of a Class "A" Misdemeanor of Abuse of a Disabled or Elder Adult.

IT IS HEREBY FOUND that the Defendant, CARL ALTON WINFIELD, JR., is guilty of a Class "A" Misdemeanor of Abuse of a Disabled or Elder Adult in violation of Section 76-5-111, Utah Code Annotated, 1996..

IT IS ALSO FOUND that the Defendant is guilty of a Class "B" Misdemeanor of Threat

Against Life or Property in violation of Section 76-5-107, Utah Code Annotated, 1996.

IT IS FURTHER FOUND that the Defendant is guilty of a Class "B" Misdemeanor of Threat Against Life or Property in violation of Section 76-5-107, Utah Code Annotated, 1996.

**SENTENCE  
ORDER SUSPENDING  
EXECUTION OF SENTENCE**

IT IS HEREBY ORDERED that the Defendant, CARL ALTON WINFIELD, JR., serve a term of incarceration of ONE (1) YEAR in the Millard County Jail.

IT IS FURTHER ORDERED that the execution on the foregoing sentence is stayed and the same suspended upon the Defendant's successful completion of the probation imposed below.

**ORDER OF PROBATION**

IT IS HEREBY ORDERED that the Defendant, CARL ALTON WINFIELD, JR., be placed on probation for a term of Thirty-six (36) Months under the supervision of the Utah State Department of Adult Probation and Parole under the following terms and conditions:

1. That the Defendant sign an agreement of probation with the Utah State Department of Adult Probation and Parole and strictly abide by the terms and conditions contained therein.
2. That the Defendant report to the Court and the Department of Adult Probation and Parole as directed and keep both advised of his current address at all times.
3. That the Defendant refrain from committing any further law violations whether federal, state or municipal.
4. That the Defendant serve a term of incarceration of FIVE (5) MONTHS in the Millard County Jail with credit for time heretofore served by the Defendant in connection with this case.

After the Defendant has satisfied this probation condition, he may be released to federal authorities



per their current hold on him.

5. That the Defendant pay a fine in the amount of Four Hundred dollars (\$400.00) or in lieu thereof, the Defendant may elect to serve Eighty (80) hours of community service at the direction of his supervising probation agent. The Defendant is to pay said debt on a schedule approved by the Department of Adult Probation and Parole.

6. That the Defendant refrain from ANY contact with the victims in this matter, Ruth Winfield, Carl Alton Winfield, Sr. and Dana Winfield Kesler, either directly or through a third party. The Defendant is to refrain from any contact with these persons whether in person, by phone or in writing.

7. That the Defendant waive his Fourth and Fourteenth Amendment rights of search and seizure and submit his person, his bodily fluids, his personal belongings, his domicile and any vehicle in his control to search and seizure by law enforcement personnel

8. That the Defendant obtain and maintain full-time gainful employment or enroll in an education course or a combination of both so as to constitute full-time employment.

DATED this 19<sup>th</sup> day of February, 1997

  
Donald J. Eyre  
DISTRICT COURT JUDGE



#### MAILING CERTIFICATE

I hereby certify that I mailed a true and correct copy of the foregoing Judgment, Sentence, Order Suspending Execution of Sentence and Order of Probation in the United States Mail, postage prepaid, this 12<sup>th</sup> day of February, 1997 to Jeffrey P. Gleave, Attorney for the Defendant, 195 North 100 East, suite 205, Richfield, Utah 84701.

George Ann Probert